

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN  
DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

THE STATE OF MISSISSIPPI,  
*ex rel.* LYNN FITCH, in her  
official capacity as Attorney General  
of the State of Mississippi,

Plaintiff,

Civil Action No. 1:20-cv-168-LG-TBM-RPM

THE PEOPLE'S REPUBLIC OF CHINA,  
THE COMMUNIST PARTY OF CHINA,  
NATIONAL HEALTH COMMISSION OF  
THE PEOPLE'S REPUBLIC OF CHINA,  
MINISTRY OF EMERGENCY  
MANAGEMENT OF THE PEOPLE'S  
REPUBLIC OF CHINA, MINISTRY OF  
CIVIL AFFAIRS OF THE PEOPLE'S  
REPUBLIC OF CHINA, PEOPLE'S  
GOVERNMENT OF HUBEI PROVINCE,  
PEOPLE'S GOVERNMENT OF WUHAN  
CITY, WUHAN INSTITUTE OF VIROLOGY,  
and CHINESE ACADEMY OF SCIENCES,

Defendants.

---

MOTION FOR EXTENSION OF TIME

---

COMES NOW the Plaintiff, State of Mississippi, *ex rel.* Lynn Fitch, Attorney General, and respectfully files this Motion for Extension of Time in which to serve process, and, in support thereof, would show the following:

1. The Plaintiff filed its Complaint on May 12, 2020.
2. Under the Federal Rules of Civil Procedure, if a defendant is not served within 90

days after the complaint is filed, the court must dismiss the action or order that service be made within a specified time. Fed. R. Civ. P. 4(m). However, “[t]his subdivision (m) does not apply to service in foreign countries under Rule 4(f), 4(h)(2), or 4(j)(1), or to service of a notice under Rule 71.1(d)(3)(A).” *Id.*

3. Defendants in this matter are foreign entities, governments, or instrumentalities subject to service pursuant to Rule 4(h)(2) or 4(j)(1). Therefore, Rule 4’s time limit for service does not apply to this matter.

4. Fed. R. Civ. P. 4(f)(1) gives effect to the Hague Service Convention and mandates the use of Hague Service Convention procedures if the foreign nation is a party to that Convention.

5. Pursuant to the Hague Convention and the Foreign Sovereign Immunities Act, 28 U.S.C. § 1608(a)(2), Plaintiff sent a request to China’s Central Authority to serve Defendants on or about August 17, 2021.

6. On February 22, 2022, Plaintiff received notice from the Ministry of Justice, People’s Republic of China that service was rejected under Article 13 of the Hague Service Convention.

7. Plaintiff was granted its third Motion for Extension of Time on March 15, 2022. (Dkt. #4, #9, and #12).

8. On April 22, 2022, Plaintiff filed a Motion to Authorize Alternative Methods of Service for non-governmental Defendants, Chinese Academy of Sciences and Wuhan Institute of Virology. Additionally, Plaintiff requested an order directing the appropriate service of Defendant Communist Party of China, who does not neatly fall

into either category or governmental or non-governmental Defendant. Once this motion has been granted, Plaintiff will serve the non-governmental Defendants via email. If Defendant Communist Party of China should be served as a governmental defendant, Plaintiff will transmit the appropriate documents for this Defendant to the U.S. Department of State, via the Clerk's Office.

9. On April 27, 2022, Plaintiff delivered documents to serve governmental Defendants The People's Republic of China, People's Government of Hubei Province, People's Government of Wuhan City, National Health Commission of the People's Republic of China, Ministry of Emergency Management of the People's Republic of China, and the Ministry of Civil Affairs of the People's Republic of China to the Clerk's Office. The Clerk transmitted these documents to the U.S. Department of State on the same day.

10. Following communication of receipt from the U.S. Department of State, Plaintiffs provided translated copies of the reissued summons to the U.S. Department of State via the Clerk's Office, and the U.S. Department of State is prepared to initiate the process of serving the governmental Defendants via diplomatic channels.

11. Plaintiff respectfully requests an extension of time to serve the Defendants in the manner required by the applicable rules and statutes.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff respectfully requests that upon consideration of this Motion, the Court grant an extension of time in which to complete service of process upon the defendants. The Plaintiff further requests any such other relief as this Court may deem just.

Dated: September 15, 2022

Respectfully submitted,  
**FOR PLAINTIFF STATE OF MISSISSIPPI  
LYNN FITCH, ATTORNEY GENERAL  
STATE OF MISSISSIPPI**

/s/ Hart Martin

Hart Martin, Miss. Bar No. 106129  
Office of the Attorney General  
Post Office Box 220  
550 High Street, Suite 1200  
Jackson, Mississippi 39205  
Telephone: (601) 359-4223